

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

CARDIFF SCHOOL DISTRICT.
OAH CASE NUMBER 2021080812

ORDER GRANTING MOTION TO DISMISS
FOR LACK OF JURISDICTION

SEPTEMBER 10, 2021

On August 25, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Cardiff School District. The Office of Administrative Hearings is referred to as OAH.

On September 3, 2021, Cardiff filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate issues alleged in the complaint. OAH received no response from Student.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education,” and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

Student alleges three issues related to an incident of alleged physical abuse or neglect committed by a teacher against Student. Issue one claims Cardiff refused to share abuse investigation report with Parents. Issue two claims the district has resisted Parent’s efforts to protect Student from their abuser. Issue three alleges Cardiff failed to follow its own administrative policies and regulations which allowed the alleged abuse to occur. Student claims Cardiff failed to appropriately investigate the alleged abuse and failed to report the abuse to Parents and local agencies. Student seeks a copy of the investigation report that the superintendent reviewed to form their opinion that the

allegations of abuse or neglect were not substantiated. Student also requests the investigation report be submitted to law enforcement and the district attorney's office to aid in a criminal investigation.

Cardiff asserts OAH lacks jurisdiction over these claims because they do not mention the Individuals with Disabilities Education Act or a denial of Student's right to a free appropriate public education, often referred to as FAPE.

The issues in the complaint do not relate to the identification, evaluation, or educational placement or the provision of FAPE to Student. Student's complaint alleges tort and criminal law claims. OAH does not have jurisdiction to resolve these claims. Accordingly, Student's complaint is dismissed.

ORDER

Cardiff's Motion to Dismiss is granted

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings